



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/766,198

01/28/2004

Richard Devine

Devine0001

3355

7590

05/11/2006

Richard Devine  
5773 Woodway; #289  
Houston, TX 77057

EXAMINER

GEHMAN, BRYON P

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 05/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/766,198

Applicant(s)

DEVINE, RICHARD

Examiner

Bryon P. Gehman

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 January 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2-8, 10, 14-17 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 2, line 3, "the inwardly facing thermally insulating layer" lacks antecedent basis for the terminology.

In claim 3, lines 2-3, "an outer thermally insulating...of the partition" is double recitation of the same structure previously defined in claim 1, lines 10 and 11.

In claim 6, lines 1-2, "the at least one vent" is inconsistent terminology or lacks antecedent basis for such an element.

In claim 10, line 2, "compartment" should be plural to be consistent.

In claim 17, lines 1-2, "the outer thermal barrier layer" lacks antecedent basis for the term.

In claim 19, lines 1-2, the phraseology should be --a first compartment and a second compartment--, as the present phrase is ungrammatical and fails to distinguish a single "first compartment" nor a single "second compartment" as set forth subsequently in the claims. In line 9, "partition member" lacks antecedent basis.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

Art Unit: 3728

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conway (4,570,792) in view of Mogil (6,247,328). Conway discloses an apparatus or bag configured to receive and thermally insulate a hot iron from ambient objects, comprising a body portion having walls defining an interior volume (at 32), an interior surface having a thermally insulating layer (35), a lid member (at 13) and a thermally insulating layer (34) on an outer surface of the apparatus. Mogil discloses partitioning an insulated apparatus employing a partition member positioned to separate an interior volume into two compartments, with a thermally insulating layer on an outer surface of two opposing sides of the partition member (see column 15, lines 21-41). To modify Conway employing a partition member would have been obvious in order to provide two discrete compartments thermally insulated from one another, in the manner taught by Mogil.

As to claims 2-3, 8, 10-11, 14-15 and 19, Conway discloses the claimed multilayer construction (see column 3, lines 43-57) to define a thermally insulating structure, the duplication or removal of one or more layers failing to provide any new or unexpected result.

As to claims 4-6, 9 and 12-13, Conway discloses an inherent venting area between the lid member (13) and the body portion (12). The inherent dimensioning is within the range of 0.25-0.5 square inches, the exact range of venting area not providing any new and unexpected result.

As to claims 7 and 16, Mogil discloses an intermediate thermally insulating padding layer of foam (see column 15, lines 21-41), a material having a typical mass to total volume ratio of less than about 1:5.

As to claim 18, Conway discloses means (40, 42) for securing.

5. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burns et al. (6,068,122) in view of Mogil. Burns et al. disclose an apparatus or bag configured to receive and thermally insulate a hot iron from ambient objects, comprising a body portion having walls defining an interior volume (inside 12), an interior surface having a thermally insulating layer (described inner layer), a lid member (at 14) and a thermally insulating layer (outer and middle layers) on an outer surface of the apparatus. Mogil discloses partitioning an insulated apparatus employing a partition member positioned to separate an interior volume into two compartments, with a thermally insulating layer on an outer surface of two opposing sides of the partition member (see column 15, lines 21-41). To modify Burns et al. employing a partition member would have been obvious in order to provide two discrete compartments thermally insulated from one another, in the manner taught by Mogil.

As to claims 2-3, 8, 10-11, 14-15 and 19, Burns et al. disclose the claimed multilayer construction (see column 4, lines 16-32) to define a thermally insulating structure, the duplication or removal of one or more layers failing to provide any new or unexpected result.

As to claims 4-6, 9 and 12-13, Burns et al. disclose an inherent venting area between the lid member (14) and the body portion (at 16). The inherent dimensioning is within the range of 0.25-0.5 square inches, the exact range of venting area not providing any new and unexpected result.

As to claims 7 and 16, Mogil discloses an intermediate thermally insulating padding layer of foam (see column 15, lines 21-41), a material having a typical mass to total volume ratio of less than about 1:5.

As to claim 18, Burns et al. disclose means (22, 24) for securing.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shown are analogous thermal insulating structures.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571) 272-4555. The examiner can normally be reached on Monday through Wednesday from 5:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Art Unit: 3728

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Bryon P. Gehman". The signature is fluid and cursive, with the first name "Bryon" and last name "Gehman" clearly distinguishable.

Bryon P. Gehman  
Primary Examiner  
Art Unit 3728

BPG